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STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

February 18, 2014

Re: S.B.11 An Act Concerning the Duties of the Connecticut Health Insurance Exchange

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department (Department) respectfully opposes Raised Senate Bill 11. S.B.11 seeks to amend section 38a-1084 of the general statutes to provide authority to the Connecticut Health Insurance Exchange to negotiate premium rates with health carriers offering or seeking to offer qualified health plans through the Exchange.

The Department submits that this bill is unnecessary, inasmuch as the Department already has authority to approve rates on individual health insurance products sold in Connecticut, both on the Exchange and off the Exchange and executes this authority with distinction. It should be noted that the Department performed its duties with thoroughness and diligence for the products offered through the Exchange for January 1, 2014 and approved rates at levels significantly lower than those submitted by the health insurers participating on the Exchange as well as the outside actuarial consulting firm hired by the Exchange to review rates prior to submission. The Department was widely acknowledged for the professionalism and expertise it exhibited during the rate review process last year.

The Department also wants to advise the Committee that if S.B. 11 were enacted, its reach would in fact be very limited, because of the application of the federal Affordable Care Act requirements. Department staff had extensive discussions last year with officials from Health and Human Services (HHS) who are charged with responsibility for implementation of the ACA, to ensure that CID has a full comprehension of the ACA requirements.

In summary, the federal statutory and regulatory requirements which apply to the negotiation process are as follow:

Affordable Care Act (ACA):

Under section 1003 of ACA which amends section 2794 of the Public Health Service Act (PHSA), HHS will review rate increase requests from health insurance issuers (health insurers

and HMOs) under the ACA unless HHS has determined that a state has an effective rate review process. HHS has awarded Connecticut this recognition and approval as a state with an effective rate review process. It is important to the state of Connecticut that the Department maintains this status so that rates can be reviewed with local expertise, rather than through federal bureaucracy. It is imperative that Connecticut's effective rate review designation remain intact.

Furthermore, section 1312(c) of the ACA requires a health insurance issuer to consider all enrollees in health plans offered by such issuer inside and outside the Exchange to be members of a single risk pool for a market (individual or small group), from January 1, 2014 on.

Regulations under ACA:

On February 27, 2013, HHS issued a final rule concerning health insurance market rules and rate review under the ACA. One section (45 CFR 156.80) of this final rule details the requirements for a single risk pool. A health insurance issuer is required to establish an index rate for the state individual market and for the state small group market based on the total combined costs for providing Essential Health Benefits (as that term is defined under ACA).

The index rate must be adjusted on a market-wide basis based on the total expected market-wide payments and charges under the risk adjustment and reinsurance programs in the state and Exchange user fees. The premium rate for all of the health insurance issuer's plans in the relevant state market must use the applicable market-wide adjusted index rate, subject only to the following plan-level adjustments (emphasis added). For plan years or policy years beginning on or after January 1, 2014, a health insurance issuer may vary premium rates for a particular plan from its market-wide index rate for a relevant state market based only on the following actuarially justified plan-specific factors (emphasis added):

(i) The actuarial value and cost-sharing design of the plan.
(ii) The plan's provider network, delivery system characteristics, and utilization management practices.
(iii) The benefits provided under the plan that are in addition to the essential health benefits. These additional benefits must be pooled with similar benefits within the single risk pool and the claims experience from those benefits must be utilized to determine rate variations for plans that offer those benefits in addition to essential health benefits.
(iv) Administrative costs, excluding Exchange user fees.
(v) With respect to catastrophic plans, the expected impact of the specific eligibility categories for those plans.

Conclusions:

In conclusion, there are strict federal rules requiring a single risk pool for a health insurance issuer's individual market and small group market, including inside and outside the Exchange, and also strict rules concerning the calculation of the index rate to be used by a health insurance issuer. Final premium rates of a health insurance issuer are calculated by adjusting the index rate based on negotiation of one or more of the five plan specific factors cited above and must be actuarially justified. Any plans of a health insurance issuer offered in the Exchange must also be

offered outside the Exchange as well, in order to comply with the guaranteed availability requirements under section 2702 of the PHSA. The premium rates for these identical plans, inside and outside the Exchange, must be the same under section 2701 of the PHSA.
Therefore, enactment of S. B. 11 will not provide broad general authority to the Exchange to negotiate premium rates with health insurers choosing to participate on the Exchange. Rather, any rate negotiation is only permitted under the narrow federal parameters described above.

Moreover, and most importantly, the existing premium rate review and approval process through the Connecticut Insurance Department has been successful and is working well. It is the Department's position that no change is needed at this time.

The Department thanks the Insurance Committee Chairs and members for the opportunity to provide this testimony.